

REMARKS

Claims 1, 2 and 5-7 are pending in the application. In the non-final Office Action of July 20, 2006, the Examiner made the following disposition:

- A.) Rejected claims 1, 2, and 5 under 35 U.S.C. 102(e) as allegedly being anticipated by *Itakura*.
- B.) Allowed claims 6 and 7.

Applicants address the Examiner's disposition as follows:

- A.) Rejection of claims 1, 2, and 5 under 35 U.S.C. 102(e) as allegedly being anticipated by *Itakura*:

Applicants respectfully disagree with the rejection.

Regarding claims 1 and 2:

Independent claim 1 claims subject matter relating to transmitting packets on a packet network. Claim 1 claims controlling a timing of packet transmission in a transmission terminal on a packet network, and controlling the amount of data to be transmitted per unit time from the transmission terminal to the network. A packet is transmitted at an interval according to a packet size.

This is clearly unlike *Itakura*, which fails to disclose or suggest that a packet is transmitted at an interval according to packet size. *Itakura* first obtains a data rate (*e.g.*, 10 bits/sec)(*Itakura* 21:40-41) and then uses this data rate to calculate a packet transmission interval (*Itakura* 21:44-48). Therefore, *Itakura* transmits its packets based on data rate. Nowhere does *Itakura* discuss that a packet is transmitted at an interval according to a packet size. Instead, *Itakura* transmits packets based on data rate.

At two places in its disclosure, *Itakura* generally discusses that packets have a size, but nowhere does *Itakura* discuss that a packet is transmitted at an interval according to a packet size. *Itakura* 14:4 and 14:66.

Therefore, *Itakura* fails to disclose or suggest claim 1.

Claim 2 depends directly or indirectly from claim 1 and is therefore allowable for at least the same reasons that claim 1 is allowable.

Regarding claim 5:

Independent claim 5 claims time calculating means for calculating time necessary for

transmitting a packet, and means for controlling a timing of packet transmission based on the time for transmitting each packet, calculated by the time calculating means.

This is clearly unlike *Itakura*. To begin with, *Itakura* fails to teach calculating a time necessary for transmitting a packet. As discussed above, *Itakura* calculates a data rate, not a time necessary for transmitting a packet. The Examiner cites several passages from *Itakura* as support for the Examiner's argument, however the cited passages clearly describe that *Itakura* obtains a data rate and controls packet timing based on data rate. Specifically, *Itakura* describes that *Itakura* first obtains a data rate (e.g., 10 bits/sec)(*Itakura* 21:40-41) and then uses this data rate to calculate a packet transmission interval (*Itakura* 21:44-48). Further, *Itakura* 22:47-58 also states *Itakura* detects a bit rate and then calculates a packet interval based on the detected bit rate.

Further, as *Itakura* does not calculate a time necessary for transmitting a packet, *Itakura* does not control packet timing based on the time for transmitting each packet. Instead, *Itakura* controls packet timing based on data (or bit) rate as discussed above.

Therefore, *Itakura* fails to disclose or suggest claim 5.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

B.) Allowance of claims 6 and 7:

Applicants respectfully acknowledge the Examiner's finding of allowable subject matter in claims 6 and 7.

CONCLUSION

In view of the foregoing, it is submitted that claims 1, 2 and 5-7 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

/Christopher P. Rauch/ (Reg. No. 45,034)
Christopher P. Rauch
SONNENSCHNEIDER, NATH & ROSENTHAL LLP
P.O. Box #061080
Wacker Drive Station - Sears Tower
Chicago, IL 60606-1080
Telephone 312/876-2606
Customer #26263
Attorneys for Applicant(s)